

Acton Community Housing Corporation
Nancy Tavernier, Chairman
TOWN OF ACTON
Acton Town Hall
472 Main Street
Acton, Massachusetts, 01720
Telephone (978) 263-9611
achc@acton-ma.gov

agenda
#2
9/25/08

TO: Board of Selectmen
FROM: Nancy Tavernier
SUBJECT: ACHC Oversight Meeting – Background material
DATE: September 17, 2008

Attached please find three files for background reading on the ACHC's activities in the past 12 months. This will hopefully streamline the oversight appointment and help us focus on areas of immediate concern.

I have attached the ACHC affordable housing handout used at public meetings, the Year in Review, and a summary of the Condo Buydown program.

Thank you.

Affordable Housing in Acton

Acton Community Housing Corporation

The Town Board charged with facilitating affordable housing is the Acton Community Housing Corporation (ACHC). This quasi-public body is a Selectmen appointed board, created by a Home Rule petition in 1996. Prior to this, ACHC was a private non-profit housing partnership group formed by the Selectmen in 1986. The Home Rule petition granted the ACHC broad powers not normally held by Town Boards. Original membership included individuals from the banking, real estate and development fields, lawyers, housing advocates, and interested citizens. Many of these same dedicated individuals became charter members of the 1996 Town board and remain members today.

ACHC has five full members and two associate members. The Town's charge to ACHC is to "provide affordable housing opportunities for working families with modest incomes."

The role of the ACHC is to act as the Town's initial contact with developers of proposed affordable residential housing projects, which may be site-specific or exploratory. The developer presents a proposed housing plan, indicating unit design and size, related facilities, site planning and affordability. The developer indicates any requests that will be made for a density bonus or other variances in return for the provision of affordable housing. Following ACHC review and discussion, specific requests may be made of the developer relative to the proposed housing, particularly as to the size, scale, adequacy, and appropriateness of the development, before the proposal is taken to the town staff and town boards. ACHC generally holds one or more public information sessions on each proposal.

Affordable Housing is defined in Massachusetts as *housing for households with incomes not exceeding 80% of the Area Median Income and housing that restricts rents or home prices for a specific period of time, generally in perpetuity*. The price range of affordable homes is currently \$140,000-175,000. Deed riders restrict the future re-sales of these properties to other income eligible families. Housing is considered affordable if it does not consume more than 38% of gross household monthly income. There may be some properties in Acton that are valued at these low prices but unless they are deed restricted for income eligible families, they can neither be counted toward the Town's 10% nor officially termed Affordable Housing.

The most effective tool for the creation of affordable units is the "Comprehensive Permit". This is the common term used to describe the process of permitting affordable development using MA General Laws Chapter 40B. This legislation was enacted in 1969 to encourage the development of housing for low and moderate-income individuals and families. Since 1970, more than 48,000 housing units across state have been developed under Chapter 40B. Under the statute, 40B establishes a comprehensive or "streamlined" permitting process enabling a local ZBA to approve a proposed housing development if at least 20-25% of the units are affordable to households whose gross annual household income does not exceed 80% of area median income. These units also must have long term

affordability deed restrictions. The 2008 median household income for the Boston Metropolitan area that includes Acton is \$85,800. For a household of four, 80% of the median household income is \$66,150.

Although a 40B project must adhere to the state Wetlands Protection Act, meet state building codes, and DEP Title V requirements, a comprehensive permit circumvents all other local zoning and approvals. A comprehensive permit may be used in a community where less than 10% of the housing units are affordable to households whose median income is 80% or less of area median. **Acton has 6.7% of its 7645 total housing units designated as affordable.** The MA Department of Housing and Community Development (DHCD) is responsible for maintaining an inventory of affordable housing and certifying the number of affordable units in each city and town.

Under the comprehensive permit process, an eligible developer may request that the ZBA waive certain requirements under the community's zoning ordinance if the developer believes that the provisions make the development financially unfeasible. If the developer's application is denied, the ZBA's decision can be appealed to the state Housing Appeals Committee (HAC). The five-member HAC, which operates under DHCD, can override a local denial or conditional approval unless the project poses serious health and safety issues that cannot be mitigated. Historically, most cases that have been appealed to HAC have been decided or settled in favor of the developer especially in the communities under the mandated affordable housing count of 10%.

The Acton Community Housing Corporation primarily focuses on moderate income households seeking home ownership. Low income households should contact the Acton Housing Authority (AHA) at (978) 263-5339. The AHA provides affordable rental housing units in the Town of Acton and rental assistance in the form of subsidies to low-income individuals and families so that they can rent housing in the private market.

Acton Community Housing Corporation
472 Main St.
Acton, MA 01720
achc@acton-ma.gov
978-263-9611

Members

Nancy Tavernier
Betty McManus
Dan Buckley

Kevin McManus
Pam Shuttle
Bernice Baran

9/15/08

**Acton Community Housing Corporation
Board of Selectmen Oversight Meeting
Update of Activities 2007-08**

The Acton Community Housing Corporation, a quasi public board appointed by the Board of Selectmen exists to facilitate the creation of affordable housing opportunities with priority given to Acton residents, children or parents of Acton residents, and employees working in Acton.

This is a wrap-up of the 2007-08 activities to date.

Willow-Central Residences

ACHC's years of effort bore fruit this year with its own housing project finally getting built and occupied at 28 Willow St. and 214 Central St. in West Acton village. After 4 years of work, ACHC selected a developer to build a duplex farmhouse style building on the Central Street side of the parcel and a single family bungalow style building on the Willow Street side. The duplex contains a 3-BR unit and a 2-BR unit; the bungalow is a 3-BR unit. The conceptual design was created with input from the neighborhood and town boards.

In addition to Community Preservation Act funds, local housing gift funds, and state funds used for preliminary design, the Steinberg-Lalli Foundation donated \$100,000 for the development. These funds were used to subsidize the unit prices and enabled the Acton Housing Authority to purchase a 3-BR unit to be used in their low income family rental program.

Condominium Buy Down Program

The ACHC began a pilot program to buy down existing condo units, resell them to income eligible households at an affordable price, place a deed restriction on the unit, and have it count toward the Town's 10%, using CPA funds for the subsidy. A Ready Buyer list was prepared through lottery. The first unit, a 2BR condo at Parker Village was sold to a 3 person household in December. A second unit was sold to the Acton Housing Authority. Other buydown activities have taken place. (See separate Condo Buydown summary)

Blanchard Place, Chapter 40B development

The 12-unit townhouse development at 139 Prospect St. was completed in late Fall 2007. The three affordable units were sold to First Time Homebuyers, a 2BR unit and two 3BR units.

Ellsworth Village Lottery

Three units of affordable housing in the age-restricted Ellsworth Village were marketed and a lottery was held in January. These units will be constructed as part of the Planning Board special permit under the Senior Residence zoning bylaw, it is not a 40B. An eligible local buyer has occupied the first affordable unit.

Somerset Hills

As a condition of a Special Permit granted by the Board of Selectmen to allow Somerset Hills on Wampus Ave. to convert to condos from apartments, three affordable units were made available for sale by lottery and one to the Acton Housing Authority. The ACHC offset the selling prices with CPA funds and provided funds to the AHA to purchase an additional condo for their low income rental program. Two of the four units were sold to first time homebuyers and two to the AHA.

Towne Building Reuse.

The plans to develop the Towne Building into 17 units of mixed income rental moved forward in 2008. The selected developer Steve Joncas of Common Ground Development applied to the Town for a Comprehensive Permit and to the state for housing funds. It will take at least a year for the developer to begin the renovation of the building. The ACHC and BOS have approved the use of \$150,000 from housing gift funds to help offset the cost of the sewer privilege fee and roof repairs.

Steinberg-Lalli Foundation

Steve Steinberg, Trustee of the Steinberg-Lalli Foundation continues to give generous support to the Town's affordable housing efforts. In addition to donations to the Willow-Central development and the Habitat for Humanity home, the Foundation is also proposing a non-profit development in the Kelley's Corner area, featuring 3 new 2BR units with the retention of the existing house.

Faulkner Mill

The Selectmen approved a 20 unit development at 4 High St. As a condition of approval for the sewer connection, one 2BR unit will be sold to an income eligible household and will be counted toward the Town's 10%. The DHCD has given permission to use the Ready Buyer list for this unit. There are three eligible households on the list.

IRS Tax exempt status

The ACHC was granted official IRS approval of its tax exempt status under the requirements of IRS 501 (c)(3). ACHC hired its own lawyer for the lengthy application process. As part of this process, ACHC created Bylaws that are consistent with IRS regulations on its status as a public charity exempt from taxation and annual reporting requirements.

Administrative update

ACHC was granted \$185,000 in CPA funds for administrative expenses and its Community Housing Program Fund to be used in a variety of ways including down payment and closing cost assistance to first time homebuyers, condo buydown subsidies, educational courses, legal expenses, and other programs as they are identified.

ACHC members followed the ZBA hearings on Trammel Crowe's Alexan development in Concord. Members also participated in the Community Plan outreach activities and visioning sessions.

Membership Challenge

For the first time in its existence, ACHC is facing a membership challenge. The committee currently has 4 regular members (5 are allowed) and 2 associate members. Neither of the associate members wishes to be full members but they are allowed to vote in the absence of a full member. One of the regular members will be on a 14 month leave of absence, leaving only 3 members. ACHC will be doing outreach for new members but given the negative feelings about 40B's in general, it will be a challenge.

Affordable Unit count for 2007

The current total of subsidized housing units in Acton as of December 2007 is 530, of which 48 are affordable home ownership units and 299 are counted as affordable rentals. The rest of the units are either Acton Housing Authority units or state group homes. This represents 6.7% of the total housing units in the town as affordable.

Chairman	Nancy Tavernier
Vice Chairman	Dan Buckley (14 month leave of absence 9/30/08)
Clerk	Naomi McManus
Treasurer	Kevin McManus
Associate Members	Pam Shuttle Bernice Baran

TOWN OF ACTON – Acton Community Housing Corporation

Name of Program: Condo Buydown Program

Type of Program: Purchase Price Buydown - Homebuyers purchase properties identified by the Town's affordable housing committee, Acton Community Housing Corporation. The ACHC makes an offer on the unit contingent on finding an eligible buyer, DHCD approval of unit and buyer, passing a home inspection and review of condo docs. The ACHC nominates a buyer who then enters into the Purchase and Sale Agreement with the seller who is given the buydown subsidy directly at the closing.

Contact: Nancy Tavernier, Chairman of the Acton Community Housing Corp. (ACHC), 978-263-9611, achc@acton-ma.gov

Funding Commitments: \$300,000 in Community Preservation funding has been approved to date to use for this program as needed.

Current Status: The ACHC has assisted with the purchase of eight (8) units to date through the program with some units purchased by eligible homebuyers and others by the Acton Housing Authority for rental to qualifying low-income tenants. To date, approximately \$280,000 in subsidy funds have been spent. ACHC has found that most of the demand for these units has come from singles and single mothers with children. In addition, funds have been used for closing costs and down payment assistance by five first time homebuyers of these and other 40B units.

Summary Description: The program is directed to subsidize the cost of purchasing an identified condominium in town to enable a qualifying purchaser earning between 60% and 80% of area median income to become a first-time homeowner. The subsidy reduces the principal amount of the mortgage and is provided to the seller at the time of the closing. The affordable purchase price is based on the state's Local Initiative Program (LIP) formula and, factoring in the condo fees, the maximum purchase price has been about \$110,000, assuming a \$300 monthly condo fee. The subsidy amount can range from \$25,000 to \$150,000. ACHC has targeted a subsidy of \$60,000 per unit for garden style units selling at market prices of \$150,000-175,000.

ACHC contracted with a lottery agent to do the DHCD required marketing and lottery to create a Ready Buyers List that met all LIP requirements. After extensive outreach, this lottery only attracted 12 applicants at the program's inception.¹ ACHC worked with a local real estate agent to identify properties to purchase, focusing on the most affordable segment of Acton's housing market, garden-style condos, and those developments that were not reliant on septic systems.² ACHC put two of these condominiums under agreement with contingencies (e.g., an eligible buyer would be found, unit would be

¹ This summer ACHC sent letters to all those on their Ready Buyer List and determined that only three were interested in remaining on the List and in possibly participating in the program.

² It should be noted that about one-third of Acton's housing stock is comprised of multi-family dwellings most of which are apartments that have been converted to condominiums.

approved by DHCD, property would meet inspection standards) for participation in the program, however, no one on the list was interested in purchasing this type of unit. The units were then made available on a first-come, first-served basis with additional outreach, and finally a buyer was found for one of the units while the seller backed-out of the other. This initial condo was on the market for \$155,000 and sold for \$100,000, requiring a \$55,000 subsidy.

ACHC found that applicants were not interested in purchasing this type of condominium. Units that were more desirable, such as townhouses, were selling for at least \$235,000 that would require a subsidy of about \$135,000 due to the high condo fees. While the program has the flexibility to go up to \$150,000 in subsidy, the ACHC was reluctant to provide this amount of subsidy to just one household.

The program has maintained some flexibility to be able to respond to opportunities as they arose including:

- Twenty new condominiums were being developed that included one (1) affordable unit as a result of the Town's negotiations with the developer who requested a sewer connection. The unit will be sold for \$160,000 while the market units are priced at \$330,000, beyond what the Town could "buy-down" for additional affordable units. The Ready Buyer list will be used for this unit. The ACHC may buy down the price further to help the buyer meet the affordability requirements.
- Another opportunity arose when the developer who was converting a garden-style apartment complex to condominiums was required by the Town to create four (4) affordable units including a 1BR unit for the Acton Housing Authority. The developer hired a lottery agent to market the units and hold a lottery, no applicants were found so the units went first-come, first-served. Two single household buyers were found to purchase two condos, a one-bedroom priced at \$115,000 and a two-bedroom priced at \$130,000. The Housing Authority purchased the remaining two (2) units, the one that was earmarked for them and a second with ACHC buydown funds. The Housing Authority owns and manages both units, renting them to eligible tenants. The subsidy amount for these four units was \$160,000, averaging \$40,000 per unit.
- ACHC also subsidized three units in a Chapter 40B development. The units were sold to first time homebuyers for \$150,000 (1 BR) and \$167,000 (3BR) and a 3BR unit was sold to the Acton Housing Authority for \$270,000. The program subsidy of \$76,000 came from local Foundation funds.

Eligibility Criteria: All units are expected to be counted as part of the Subsidized Housing Inventory as LIP Local Action Units, and consequently must meet all state LIP requirements and be deed restricted for future resales.

Application and Selection Process: The ACHC engaged a consultant to conduct the marketing and lottery per LIP requirements. A Ready Buyers List was initially created that included 12 qualified applicants. DHCD ruled the list could stay active for 2 years

due to the sporadic nature of the program. After that a whole new affirmative marketing and lottery procedure has to be initiated. When everyone on the List indicated that they were not interested in purchasing the units that ACHC had put under agreement, the lottery agent began to identify prospective purchasers on a first-come, first-served basis. At this point there are only three (3) persons on the current Ready Buyer List.

Property Inspection: ACHC hired an independent home inspector to inspect properties and identify any needed repairs, including those in common spaces. Thus far only one unit needed a significant repair, the replacement of an electrical box, and the seller and ACHC split the costs. Lead paint has not been an issue to date, and if lead was found ACHC would likely back away from the deal or insist that the seller do the deleading prior to the closing.

Success Factors in Adoption and Implementation:

As ACHC was processing applications, it found that applicants were having difficulty affording the associated closing costs and down payments so they established a program to provide up to a \$10,000 grant to qualifying first-time homebuyers to offset the purchase of a unit. A half dozen have participated in the program since it was introduced in 2007, three from the Condo Buy-down Program.

ACHC has also maintained the flexibility and foresight to respond to opportunities as they arose such as entering into an agreement on units sold to the Housing Authority rather than have the AHA go through a lengthy RFP process.

Issues to Consider/Do Differently:

The main problem with Acton's Condo Buydown Program was the product itself. The affordable market units are all older garden style units, they are roughly 850 square feet two bedroom units with some amenities such as swimming pools but no inside parking or storage and no washer/dryer hook-ups in the units. Because Acton has so many condo units, there are always more desirable units on the market such as townhouses but at prices that would require a subsidy greater than politically practical (\$150,000+).

In a down market, the gap between the market price and affordable price is not that great, making it less attractive to a first time homebuyer, who not only gives up that eligibility for future 40B units, but also takes on a deed restricted unit with accompanying red tape and documentation of income, assets, etc. and a lack of equity building. There is also strong competition with the current rental market, the large Avalon project has attracted this clientele as has lower market rents in general. It is cheaper to rent than to own in the current market, that reduces the motivation to buy a unit.

Acton's high tax rate is also a factor in the affordability analysis as are the high condo fees. All of the units considered by ACHC had condo fees that included heat and hot water, those fees are destined to rise every year. ACHC also only considered units on sewers or with treatment plants due to the frequency of special assessments for septic repairs. Having to use the market condo fee has a huge impact on the affordability but

the fees cannot be adjusted per the Master Deed of the Condo Associations. This is a major hurdle in the success of the program. Townhouse units typically have condo fees of over \$400 a month. The typical total monthly housing cost is limited to \$1200 per DHCD affordability requirements. This means all the other housing costs (mortgage, insurance, taxes, etc.) would have to be no more than \$800 per month.

One revision could be to work with each applicant on the Ready Buyer List and take them around to units on the market to see if they would select something they considered desirable and then work with them to come up with a reasonable subsidy. New construction units are definitely on the top of every buyer's list, buying those down would be a winner for the buyers but not for the longevity of the program. The funds would soon be depleted by the large subsidy required especially since CPA funding is expected to drop.

Karen Sunnarborg, Housing and Planning Consultant

Nancy Tavernier, ACHC

9/15/08